

Dale Joseph Burke,  
Plaintiff,  
vs.  
North Dakota Department of Correction  
and Rehabilitation, et. al.,  
Defendants.

## Case No. 1:12-cv-131

In his motion, the Plaintiff contends a preliminary injunction is necessary because the Defendants are not providing him adequate treatment for his acid reflux disease. The Defendants respond that the medication the Plaintiff takes to control his acid reflux is not a life sustaining drug as the Plaintiff suggests and is available over-the-counter in the prison commissary. Nevertheless, it appears the Defendant was given a prescription for the medication in early February. It is clear the Plaintiff cannot show irreparable harm or a likelihood of success on the merits. A preliminary injunction is not warranted.

The Court has carefully reviewed the Report and Recommendations, relevant case law, and the entire record, and finds the Report and Recommendations to be persuasive. Accordingly, the Court **ADOPTS** both Report and Recommendation (Docket No. 70) in its entirety and **DENIES** Burke's requests for a preliminary injunction. (Docket No. 59).

**IT IS SO ORDERED.**

Dated this 30th day of July, 2014.

/s/ Daniel L. Hovland

Daniel L. Hovland, District Judge  
United States District Court